

February 14, 2005

Mr. Arthur L. Williams
Director
Louisville Metro Air Pollution Control District
850 Barret Avenue
Louisville, KY 40204-1745

SUBJECT: Comments to Proposed STAR Program Regulations

Dear Mr. Williams:

We certainly appreciated the opportunity to meet with you on October 14th, 2004 to discuss the impact of the STAR program on the asphalt plant producers that operate within Louisville Metro. While the Louisville Metro Air Pollution Control District (LMAPCD) has made some revisions to the original proposal since our initial meeting, we still have concerns with the regulations as written. As a result, members of the Plantmix Asphalt Industry of Kentucky, Inc. (PAIKY) who own and operate plant sites within Louisville Metro submit the following comments in opposition to the proposed STAR Program regulations.

The Louisville Metro Air Pollution Control District issued draft regulations to address the issue of unhealthy levels of air toxic contaminants on September 16, 2004 and January 13, 2005. Spawned by articles in the Courier-Journal, and at the urging of the mayor, the LMAPCD has quickly prepared a set of regulations. These regulations closely follow the ones utilized in Michigan and are some of the most stringent requirements in the country.

Unfortunately, due to the type of permit we hold (conditional major), the asphalt plants have been grouped into this regulation. This permit is based on theoretical asphalt production (365 days per year, 24 hours per day, 500 tons per hour) that is physically impossible to achieve in the state of Kentucky due to weather conditions and the limited demand for asphalt in this area. That theoretical production would result in over 4 million tons of asphalt in Louisville – more than the Kentucky Transportation Cabinet let in 2004 for the entire state and probably more than ten times the actual production in the Louisville area. As a result, the actual emissions from an asphalt plant are dramatically lower than these theoretical values.

It is clear that the LMAPCD considers the large plants in West Louisville to be the largest contributors to the air toxics problem. In contrast, we do not believe that asphalt plants are

significant contributors to the toxic air levels within Louisville Metro. Asphalt plants are small, locally owned companies and typically do not have full time and dedicated environmental professionals to address these types of regulations. From our perspective, the STAR Program regulations are long, convoluted, and very difficult to understand.

For those facilities subject to the STAR Program, the LMAPCD has provided options for determining the maximum effect of the pollutant emissions, called Maximum Ambient Concentration (MAC). These options are portrayed as a convenience to the regulated community, with Tiers 1 and 2 utilizing tables that should be easy to use. Tiers 3 and 4 involve the use of dispersion models that would only be used by environmental professionals, either on the facility staff or hired consultants. All four tiers give you a MAC. Tier 1, however, results in a MAC that is roughly 200% more stringent than the MAC resulting from the dispersion modeling of Tier 4. It isn't much benefit to our members if Tiers 1 and 2 are easier to use if the MACs they produce are so stringent that we are forced to use the dispersion models in Tiers 3 and 4. When closely examined, few facilities will be able to use Tiers 1 and 2 and most will be forced to resort to Tiers 3 or 4. Tiers 3 and 4 require the expertise of an environmental professional. For our industry, this will require the affected facilities to employ or hire an environmental professional. The larger plants can easily do this but it places a significant burden on the asphalt plant owners.

There are two regulatory agencies in Kentucky, the LMAPCD in Louisville Metro, and the Kentucky Division for Air Quality (KDAQ) in the remainder of the state. The KDAQ is the regulating body for over 100 asphalt plants across the state and has a measured and thoughtful approach to air toxics regulations (along with experience and expertise specific to our facilities). **We ask that the LMAPCD exclude asphalt plants from the STAR program and allow us to operate under the program administered by the KDAQ.**

For small and locally owned asphalt plant owners, the current program is difficult to understand and most likely requires an environmental professional to prepare its requirements. We estimate that to simply show that the STAR Program will not apply to the smallest emitter of a toxic air contaminant, it may require an expense in the range of \$3,000 to \$5,000. We do feel that the STAR program has been rushed into existence without giving it the time and consideration necessary.

With only 30 days to review and provide comments on the latest regulations, we simply cannot fully understand the implications of these regulations. We ask that the LMAPCD consider three issues on our behalf:

- Extend the deadline on the STAR program to allow more time for review, comments and further revisions
- Revisit how the MAC is determined for Tiers 1 and 2 and truly provide relief for the small companies so that sophisticated and expensive modeling is not required when it is not necessary

- Consider exempting asphalt plants from the STAR program and allow us to operate under the KDAQ guidelines that cover the remainder of the state.

We appreciate the opportunity to comment on the proposed STAR program regulations. Please contact our office at 800-544-8522 if we can be of assistance.

Sincerely,

The PLANTMIX ASPHALT INDUSTRY OF KENTUCKY, INC.

Brian K. Wood, P.E.
Assistant Executive Director